

1

2

3

4

**VIRGINIA RACING COMMISSION**

5

DECEMBER 1, 2011

6

10700 Horsemen's Road

7

New Kent, VA 23124

8

Commencing at 9:43 a.m.

9

10

11

12 **COMMISSION MEMBERS:**

13 I. Clinton Miller, Chairman

Stuart Siegel

14 J. Sergeant Reynolds, Jr.

15 **COMMISSION STAFF:**

16 Bernard Hettel, Executive Secretary

David S. Lermond, Jr., Deputy Executive Secretary

17 Kimberly M. Carter, Office Administrator

18

19 **ATTORNEY GENERAL'S OFFICE**

20 Amy K. Dilworth

21

22

23

24

**CAPITOL REPORTING, INC.**  
**REGISTERED PROFESSIONAL REPORTERS**  
**(804) 788-4917**

25

## I N D E X

	PAGE
1. Approval of the minutes of the regular meeting of October 26, 2011	3
2. Commissioners Comments	3
3. Committee Reports	3
4. Stakeholders	
a. Colonial Downs Review of the 2011 Harness Meet	4
b. Request from Colonial Downs for 2012 Thoroughbred Race Days	4
i. Presentation from Colonial Downs	
ii. Response from VaHBPA	
iii. Response from VTA	
iv. Response from General Public	
c. Request from Colonial Downs for 2012 Standardbred Race Days	9
i. Presentation from Colonial Downs	
ii. Response from VHHA	22
iii. Response from General Public	
d. Request by VTA for Amendments to Chapter 130 - Glenn Petty	51
5. Application for Renewal of ADW Licenses for 2012	55
a. EZ Horseplay	
b. TVG	
c. XpressBet	
d. TwinSpires	
6. Public Participation	57
7. Set Next Meeting	50
8. Closed Meeting	66
9. Adjournment	66

22

23

24

25

12-01-2011

1           NOTE: The meeting is called to order at 10:03  
2 a.m.

3           MR. MILLER: Good morning, everyone. Welcome to  
4 the Racing Commission meeting set for today.

5           Let the record show first off that there is a  
6 quorum here, barely -- Commissioner Siegel, Commissioner  
7 Sergeant Reynolds, and myself, the Chairman, are present.  
8 Absent are Mark Brown, and Dave Reynolds is unavoidably  
9 absent due to some very important matters that needed his  
10 attention today. But there are three of us here, and we  
11 have reached a quorum, and we can make a decision, I guess.

12           we'll begin the meeting with a motion for the  
13 approval of the minutes of the regular meeting of October  
14 26th, 2011. Do I hear a motion?

15           MR. SIEGEL: So moved.

16           MR. MILLER: It's been moved, I second that they  
17 be approved. All in favor say aye.

18           NOTE: All indicated by voting aye.

19           MR. MILLER: The minutes of the regular meeting of  
20 October 26th, 2011, are approved.

21           The second item on the agenda is Commissioners  
22 Comments. Any Commissioners have any extraordinary comments  
23 they want to make at this time.

24           MR. SIEGEL: No.

25           MR. MILLER: Next, Committee Reports. Any

12-01-2011

1 committee reports?

2 NOTE: There was no response.

3 MR. MILLER: All right. No reports of committees.

4 The fourth item on the agenda is to hear from the  
5 stakeholders, and first will be a Colonial Downs review of  
6 the 2011 Harness Meet.

7 Mr. Stewart.

8 MR. STEWART: I think we've said all we need to  
9 say about the 2011 Harness Meet.

10 MR. MILLER: Okay, well, we had some comments at  
11 the last meeting, and also there's been filings related to  
12 the coming 2012 Meet.

13 The second item on the agenda under Stakeholders  
14 is the request from Colonial Downs for the 2012 Thoroughbred  
15 Race Days.

16 Jim?

17 MR. WEINBERG: I'd be happy to.

18 As I believe the Commission is aware and as  
19 reflected in the Colonial Downs Race Day Request, Colonial  
20 Downs is requesting 32 days of racing from Saturday, June  
21 2nd, to Saturday, July 28th, 2012. The Meet will feature  
22 evening thoroughbred racing on the turn as Colonial Downs  
23 completes the repositioning of the existing lighting and the  
24 addition of new lighting to illuminate the turf course.

25 Post time for evening races will be 7:00 p.m.,

12-01-2011

1 Thursday through Saturday, and 1:00 p.m. on Sundays, with a  
2 few exceptions as noted in the Race Day Request.

3 I'd like to highlight just a couple of matters.  
4 The Meet will commence with the traditional running of the  
5 Strawberry Hill races on Saturday, June 2nd, in collaborat-  
6 ion with the State Fair of Virginia. That day, racing will  
7 commence at 1:00 o'clock. There will be no racing on Sun-  
8 day, July 22nd, to leave a possible rain date for the Vir-  
9 ginia Derby, which is the day before.

10 Additionally, Colonial Downs will race on Tuesday,  
11 July 3rd, instead of Thursday, July 5th, in order to take  
12 advantage of the 4th of July holiday.

13 I would note that I believe you received an e-mail  
14 from Mr. Petramalo indicating the VHBPA's support of this  
15 request.

16 I'm happy to pause here for questions or comments  
17 from the Commission.

18 MR. MILLER: Any questions of Mr. Weinberg?

19 Mr. Siegel?

20 MR. SIEGEL: Yes, just one quick question.

21 The movement of those lights -- that's a permanent  
22 movement and not simply for this season?

23 MR. WEINBERG: Correct.

24 MR. SIEGEL: Are those lights -- will they be  
25 constructed in a fashion that they can be rotated or other-

12-01-2011

1 wise light the dirt track at any time in the future without  
2 great expense?

3 MR. STEWART: No, they're not.

4 MR. SIEGEL: So this is a permanent move that will  
5 eliminate lighting on the main track?

6 MR. WEINBERG: Correct.

7 MR. SIEGEL: Okay.

8 MR. MILLER: Mr. Reynolds, do you have any  
9 questions?

10 MR. J. SARGEANT REYNOLDS, JR.: No, I don't at  
11 this time.

12 MR. MILLER: All right.

13 MR. SIEGEL: I would just make a comment.

14 when I read this the other day, I feel like it's  
15 really a positive move with regard to the timing of the  
16 races in particular. I think you've opened yourself up to  
17 most people. Most working people found it inconvenient to  
18 come at the times that we have been racing previously. Un-  
19 fortunately, there's lots of people without a job, and those  
20 folks don't have any money, so I think that this will help  
21 to increase the attendance, and hopefully the purse as well  
22 -- I mean the handle as well. I applaud you for taking  
23 these steps.

24 MR. WEINBERG: Thank you.

25 MR. MILLER: Mr. Petramalo, do you have any

12-01-2011

1 comments you wish to make?

2 MR. PETRAMALO: Yes, we support the Race Day  
3 Request. I would add a codi- -- is that what they call it?

4 MR. MILLER: Codicile?

5 MR. PETRAMALO: Codicile. Because there will be  
6 no lighting on the dirt track, if it rains, we can't move  
7 from the turf to the dirt, so the card would be washed out,  
8 and we've discussed this with Colonial, and Ian and I have  
9 agreed that if that happens, the whole card will be run on  
10 the following wednesday if we have a total rain-out, cor-  
11 rect?

12 MR. STEWART: Yes, that's fine.

13 MR. PETRAMALO: That's about it.

14 I was hoping to be able to pick a fight on other  
15 grounds, but -- sorry, I mean we've come to an agreement.

16 MR. MILLER: Well, that's very nice. I commend  
17 you.

18 Thank you Mr. Petramalo. Mr. Petty?

19 MR. PETTY: Yes, sir. We support the application  
20 in full.

21 MR. MILLER: Anyone else in attendance, any  
22 member of the general public or any person wish to make any  
23 comments related to the Thoroughbred Race Days?

24 MS. BOUZEK: Can I add something in addition to  
25 the -- this supports what Frank just said. We're also work-

12-01-2011

1 ing on improving the drainage on the turf track. We are  
2 starting that in conjunction with moving the lights. We've  
3 hired -- we just signed it this morning -- the contract to  
4 work on the drainage on the two turns that are having  
5 trouble, so it used to be that if it rained even a little,  
6 we had to come off, but we're hoping that with this improved  
7 drainage that we can sustain it.

8 MR. MILLER: Thank you, very much.

9 Anyone else have any comments?

10 NOTE: There was no response.

11 MR. MILLER: Thank you.

12 The next item on the agenda is item 4c, and  
13 that is the request from Colonial Downs for 2012 Standard-  
14 bred Race Days.

15 Mr. Stewart?

16 MR. WEINBERG: Can I just ask a point of  
17 procedure?

18 MR. MILLER: Oh, yes.

19 MR. WEINBERG: Is it the Commission's intention  
20 not to act on the Thoroughbred race days?

21 MR. MILLER: Oh, we'll act on everything when  
22 we get through. We'll make all the appropriate motions and  
23 votes at the end of all the presentations.

24 MR. WEINBERG: Thank you.

25 MR. MILLER: If that's all right. Thank you.

12-01-2011

1 Mr. Stewart?

2 MR. STEWART: Good morning. Colonial Downs  
3 requests 12 days of standardbred racing in 2012 during the  
4 three-week period commencing wednesday, September 12, and  
5 ending on Sunday, September 30th. The normal schedule would  
6 be wednesday, Thursday, Saturday and Sunday with racing four  
7 days a week.

8 In making this request, Colonial Downs would like  
9 to reiterate three key points it has stressed to the Commis-  
10 sion over the last year:

11 Major adverse financial changes have occurred  
12 in the industry over the last several years, not just in  
13 Virginia, but nationwide.

14 we -- Colonial Downs, VHHA, the horsemen, and the  
15 Commission -- have reached a point where it is obvious that  
16 a strategy that attempts to maintain the status quo for live  
17 standardbred racing in Virginia, notwithstanding the changes  
18 in the industry, is not a viable strategy. A strategy must  
19 be found that balances the desires of the standardbred  
20 horsemen with the economic realities that we all face.

21 Colonial Downs believes that the industry's  
22 efforts should be directed to determining a successful live  
23 racing strategy and that funds should be expended in ways  
24 that create a lasting benefit that provides a platform to  
25 grow the standardbred industry. Colonial Downs has identi-

12-01-2011

1 fied a number of those possibilities and is prepared to work  
2 with the stakeholders to realize upon those that make the  
3 most sense provided that it has willing stakeholders to en-  
4 gage in such an exercise. Proposing 32 days of standardbred  
5 racing does not evidence a willing stakeholder. The exper-  
6 ience of the last few years in other states more than demon-  
7 strates that increasing the number of live race days does  
8 not equate to long-term success and is frequently cited as  
9 one of the sources of the industry's problems.

10 Let's examine the significant changes that have  
11 occurred in the industry and the consequences those changes  
12 have upon the operation of a standardbred meet.

13 I think it would make sense at this point to  
14 review the financial situation of Colonial Downs, especially  
15 in light of the action that we took on Tuesday to suspend  
16 operations at our Hull Street OTB. We did not take that  
17 action lightly, but it is a clear reflection of the situat-  
18 ion we find ourselves in. All the numbers necessary to  
19 understand what is happening in Virginia are in the VRC  
20 annual report.

21 In 2007, total handle in Virginia peaked at \$201  
22 million. That year, handle in the live and OTBs peaked at  
23 \$167.7 million. In 2010, total handle was \$158.9 million  
24 and live and OTB handle was \$105.5 million. In four years,  
25 total handle is down 21 percent and live and OTB handle is

12-01-2011

1 down 37 percent. Account wagering handle has partially  
2 filled the handle gap growing from \$33.2 million to \$53.4  
3 million. Rolling these numbers forward for 2011, my pro-  
4 jection is that live and OTB handle will fall to \$97.8 mil-  
5 lion and ADW handle will grow to \$62.5 million for a slight  
6 increase in total handle to \$160.3 million. At this point,  
7 in five years total handle is down 20 percent and OTB and  
8 live handle is down 42 percent.

9 ADW handle has grown, which helps, but all handle  
10 is not created equal. While the horsemen net approximately  
11 the same percentage from ADW handle as they do from the OTB  
12 handle, Colonial Downs nets less than half. That is why the  
13 horsemen can sit here today and tell you that they have  
14 plenty of purse money to race for, and I can tell you that  
15 Colonial Downs has significantly less money from OTBs and  
16 ADW to use to put on those races, and we can both be right.

17 The reality is though, it is hard to race without  
18 a racetrack, and that's the ultimate consequence of the cur-  
19 rent trends if we collectively don't make changes.

20 The overall impact on Colonial Downs has been  
21 significant. In 2007, Colonial's EBITDA -- earnings before  
22 interest, taxes, depreciation and amortization -- was  
23 \$1,401,000. Given that Jacobs Entertainment has publicly  
24 held debt and files reports with the Securities and Exchange  
25 Commission, our corporate policy is not to forecast our

12-01-2011

1 financial results to the public, so all I can say about 2011  
2 is through September 30th, EBITDA was \$792,000, which is  
3 down 38 percent from 2007 when the nine month EBITDA was  
4 \$1,268,000, and the fourth quarter is coming up which in-  
5 cludes a full month of harness racing in October in which we  
6 lose significant amounts of money. You know, the fourth  
7 quarter's coming up, so . . . .

8           In reading the VHHA's race day letter, there's  
9 obviously another misconception about Colonial Downs' fin-  
10 ances that needs to be corrected. EBITDA is an investment  
11 banker shorthand for cash flow. It doesn't take into ac-  
12 count capital improvements, taxes or interest. Colonial  
13 Downs has continued to reinvest in this business in the face  
14 of unending losses. In the last nine years and nine months,  
15 even setting aside the \$10.4 million spent to buy out the  
16 MJC contract, total EBITDA has been \$12 million, and total  
17 CAPEX has been \$20 million. If you look at net income which  
18 spreads the CAPEX cost through depreciation over a period of  
19 years, there's been a loss of \$11.4 million. This doesn't  
20 include the \$10.4 million for the MJC buyout and doesn't  
21 include any interest expense as Mr. Jacobs basically took on  
22 personally all of Colonial Downs' outside debt, which was  
23 significant, many years ago. The reality is that whatever  
24 cash is generated by this business is poured back into it  
25 along with a lot more.

12-01-2011

1           As long as we're talking about misconceptions, I'd  
2 like to address the comments about the health of the OTBs.

3           Let me pass this out.

4           NOTE: A document is handed out to the members of  
5 the Commission and others present.

6           MR. STEWART: Given my previous comments regard-  
7 ing handle and our recent actions regarding Hull Street and  
8 Mulligans, I think it's safe to say that all is not well  
9 with the OTBs. Let's look at where we would be through  
10 October 31st with the five OTBs at which we have revenue  
11 sharing arrangements with the HBPA if those arrangements  
12 were not in place.

13           At Finns, currently the horsemen collectively get,  
14 as of October 31st, \$89,000, and Colonial Downs is earning  
15 \$85,000. In Alberta, the horsemen earn \$160,000, Colonial  
16 Downs only earns about \$131,000. At Vinton, the horsemen  
17 are earning \$63,000, Colonial Downs \$10,000. Martinsville,  
18 the horsemen earned \$228,000, Colonial Downs, \$215,000.  
19 Scott County, the horsemen earned \$275,000, Colonial Downs  
20 \$249,000. If we didn't have the revenue sharing deal, at  
21 Finns, the horsemen men would be earning \$105,000, Colonial  
22 Downs \$69,000, but the problem here is the only reason we  
23 did the Finn McCool deal was because the HBPA was willing to  
24 go into it with us. Otherwise, we never would have opened  
25 the place because we weren't willing to take the risk by

12-01-2011

1 ourselves under the concept.

2           Alberta, the horsemen would be earning 242,000,  
3 Colonial Downs 149,000. The problem here is we wouldn't be  
4 operating a business where somebody else earns five times as  
5 much as we do and we take all the business risk and make all  
6 of the investment, so Alberta would be closed without the  
7 revenue sharing.

8           without the revenue sharing arrangement, our  
9 share of Vinton would be a loss of 133,000. Vinton would be  
10 closed.

11           Going to Scott County, our share would be a loss  
12 of \$28,000. Scott County would be closed. The only one  
13 that would be open is Martinsville.

14           The truth here is the HBPA took it upon themselves  
15 to preserve these OTBs, which has allowed the VHHA to earn  
16 approximately \$150,000 annually in purse money which they  
17 would otherwise not have if they did not participate in pre-  
18 serving the situation.

19           when you add it all up, the financial paradigm  
20 for racing in Virginia has fundamentally and dramatically  
21 changed. However, the VHHA refuses to recognize this. In  
22 spite of what has happened, they want to increase race days  
23 from 30 to 32, which is exactly what they were in 2007 when  
24 the handle peaked. The simple fact that there's enough  
25 purse money to race a certain number of days doesn't mean

12-01-2011

1 that all other factors that significantly impact the overall  
2 financial situation can be ignored.

3 The VHHA's proposal is for 32 days. It is exactly  
4 what we did last year plus two days.

5 Is Ben here? Let's review what that looks like.  
6 We've got a little video.

7 NOTE: A video is played to the gathering, and at  
8 the conclusion of the video, Mr. Stewart continues:

9 MR. STEWART: That's what 30 days of harness  
10 racing looks like.

11 If we are to succeed, we need to find a different  
12 way of doing business when it comes to standardbred racing.  
13 Improved marketing has been suggested as part of the answer.  
14 The VHHA tried a new promotion to own-a-horse-for-a-day.  
15 However, let's look at the costs and benefits of this pro-  
16 motion.

17 Qualifications for the promotion, which is the  
18 attraction, was on Wednesdays. Total Wednesday attendance  
19 was 1100 people. This compares to Thursdays when total at-  
20 tendance was 896. There was no increase in weekend attend-  
21 ance. Arguably, the promotion attracted 204 additional fans  
22 -- the difference between Wednesdays and Thursdays -- at a  
23 cost of, I believe Dr. Dunnavant told me \$20,000; I'm not  
24 positive of that. I'm sure Mr. Woolnough will enlighten us  
25 when it's his turn to speak -- or nearly \$100 a fan.

12-01-2011

1           We need to redirect our efforts in a new way if  
2 standardbred racing is to sustain itself in Virginia. The  
3 issues we face are not unique to Virginia. As reflected in  
4 the report shared with the Commission earlier this year, New  
5 Jersey is illustrative of the problem. Their Governor cre-  
6 ated an advisory commission and requested a study and re-  
7 port because New Jersey, the State, was paying for it. The  
8 report concluded that the allure of harness racing is disap-  
9 pearing and dramatic changes are needed, including possibly  
10 closing Meadowlands, leasing the facilities to the horsemen,  
11 or ceasing harness racing entirely.

12           An award of three weeks of standardbred racing for  
13 2012 is important for a number of reasons: A short meet --  
14 15 days -- has been successful in the past at Colonial  
15 Downs. It can be successful again, particularly if pared  
16 with the Maryland circuit. Rosecroft is closer to Colonial  
17 Downs than Oak Ridge, the other racetrack providing racing  
18 prior to the 15 day meet at Colonial Downs. A short meet  
19 provides the incentive to pursue such a circuit, a 32-day  
20 meet does not. Furthermore, if a circuit is to succeed, the  
21 purses offered in Virginia must be equivalent to the purses  
22 offered at the other racetracks participating in the cir-  
23 cuit. To achieve higher purses, we must race fewer days.  
24 Contrary to the VHHA's assertion, \$50,000 a day is not going  
25 to be competitive as Rosecroft and Ocean Downs ramp up their

12-01-2011

1 slot machine revenue-fattened purses.

2 A short high-quality meet is a proven successful  
3 racing model. With fewer days, we can increase the purses  
4 significantly. Higher purses attract quality horses.

5 The VHHA states that no horses will come for a  
6 12-day meet. In 2001, Colonial Downs ran a 15-day meet in  
7 October with 163 races that averaged 8.3 horses per race.  
8 Purses were \$1.2 million, or \$80,000 per day. There was  
9 also a nine-day meet that year at Oak Ridge in Nelson  
10 County.

11 If 12 days is not satisfactory, Colonial Downs  
12 will agree to allow purse money to be used to fund nine days  
13 of races at Rosecroft in 2012. Based upon the 2011 sched-  
14 ule, Rosecroft will commence racing within a few weeks of  
15 Colonial Downs' closing, or we can coordinate our meet so  
16 the horsemen can run in both places. While Rosecroft is  
17 just across the border in Maryland, it is actually closer  
18 to Colonial Downs than Oak Ridge.

19 The number of race days is just one component  
20 of a comprehensive plan to save harness racing in Virginia.  
21 The VHHA has been invited to engage in discussions since  
22 February in addressing the challenges facing standardbred  
23 racing. The only thing these discussions have yielded is an  
24 initial embracing of the idea of a Virginia centric meet by  
25 the VHHA where the VHHA tentatively proposed meets of 24, 18

12-01-2011

1 and four days over the next three years, a plan which Col-  
2 onial Downs endorsed. That tentative plan was replaced with  
3 a dramatic reversal to a 24-day six-week meet for the next  
4 three years, which has how now evolved into a 32-day eight  
5 week meet. To us, this signals a strategy by the VHHA of  
6 simply throwing out numbers of days, I guess under that  
7 assumption that the process merely involves the VRC adding  
8 two numbers together and dividing by two. This approach is  
9 not a path to progress. It fails to address any of the  
10 issues that have been raised over the last nine months. A  
11 15-day meet brings the VHHA to the table much as the Com-  
12 mission's Standardbred Task Force meeting forced the VHHA to  
13 begin to deal with the issues in earnest.

14           One additional point bears mentioning. The VHHA's  
15 race day request is replete with proportionality arguments  
16 regarding thoroughbred and standardbred racing, including an  
17 argument that the original intention in the award of the  
18 license was the proportion of standardbred days to thor-  
19 oughbred days be one-third to two-thirds, or 50 days of  
20 standardbred racing for every 100 days of thoroughbred rac-  
21 ing. Under that logic, sixteen days of standardbred racing  
22 is proportional to 32 days of thoroughbred racing set for  
23 2012. The true proportionality would be based on handle  
24 with the \$1 million spent on thoroughbred racing equivalent  
25 to \$250,000 on live standardbred racing, or less than three

12-01-2011

1 weeks of racing.

2 Colonial Downs believes that expanding a program  
3 that is not working does not make sense. We believe that  
4 the industry's efforts should be directed to determining a  
5 successful live racing strategy, and that funds should be  
6 expended in ways that create a lasting benefit and grow the  
7 industry, including the standardbred industry.

8 The experience of the last few years in other  
9 states more than demonstrates that increasing the number of  
10 live race days does not equate to long term success, and is  
11 frequently cited as one of the sources of the industry's  
12 problems. Therefore, we believe that 12 live standardbred  
13 racing days in 2012 is in the overall best interest of the  
14 industry in Virginia.

15 I'll be happy to respond to any questions.

16 MR. MILLER: Any questions of Mr. Stewart?

17 MR. J. SARGEANT REYNOLDS, JR.: I have a question.

18 MR. MILLER: Mr. Reynolds?

19 MR. J. SARGEANT REYNOLDS, JR.: Yes, that was  
20 well-presented. You said, obviously, without a racetrack,  
21 there's no racing and that raises a lot of concerns for me.

22 In our subcommittee meeting, I guess a couple  
23 months ago, we talked about it's obvious that there's little  
24 on -- there's little live demand for harness racing, but  
25 when you go to the OTBs and Advance Deposit wagering, I know

12-01-2011

1 that's shrinking, but you mentioned that in the meeting, we  
2 are getting to the point where that's not even worth having  
3 harness racing at all in Virginia. I don't know if and when  
4 we meet that threshold, but can you tell us how close y'all  
5 are to meeting that threshold where y'all would just throw  
6 up your hands and say, you know what, we're just not going  
7 to have any more harness racing in Virginia?

8 MR. STEWART: Well, that's difficult to predict,  
9 because I've really tried to avoid in all these conversat-  
10 ions ultimatums. I don't think they bring you any more.  
11 But on the other hand, when you look at the trend line, is  
12 it realistic that our OTB handle goes down 10 percent next  
13 year? I think it's entirely possible -- certainly possible.  
14 would that bring us there? It's possible.

15 I mean, another significant decline in handle  
16 could cost us some more OTBs, there's no question about  
17 that. I mean we've got OTBs here that, as I said, the only  
18 reason those are open is because the HBPA is willing to  
19 share -- wanting to share the finances of those. But then  
20 the HBPA is going to come to a point where they're not in-  
21 terested in losing money in the OTB business.

22 Could it happen this year? It could; it's  
23 possible.

24 MR. J. SARGEANT REYNOLDS, JR.: Have y'all had  
25 any discussion about this Virginia centric meet where you

12-01-2011

1 can take purse money and throw some days up to Rosecroft and  
2 other areas? Y'all obviously haven't come to any agreement  
3 on that, but have y'all had those discussions?

4 MR. STEWART: well, the last conversation I had  
5 with Dr. Dunnavant I believe was the last day of the meet,  
6 but right around then, and yes, the VHHA wasn't really in-  
7 terested in doing that.

8 MR. J. SARGEANT REYNOLDS, JR.: Okay. That's all  
9 I've got.

10 MR. MILLER: What was the reason, Mr. Stewart,  
11 that -- what did you base that last comment on where they  
12 said they weren't really interested in doing it? Did they  
13 give some specific reason why they were not interested?

14 MR. STEWART: well, I -- honestly, I think that  
15 question's probably better directed to them.

16 MR. MILLER: Yes, but did Dr. Dunnavant express a  
17 reason to you? That's what I'm getting at.

18 MR. STEWART: He said that the sense of his --  
19 well, he personally told me that he thought it was a good  
20 idea. He said the sense of his membership was that they  
21 would rather not do it.

22 MR. MILLER: All right. Does that complete your  
23 presentation?

24 MR. STEWART: It does.

25 MR. MILLER: All right. We'll have a response

12-01-2011

1 from the Virginia Harness Horsemen's Association.

2 Mr. Woolnough?

3 MR. WOOLNOUGH: Mr. Chairman, I'll start off not  
4 like I wanted. We'll talk about the movie, and I promise  
5 you I'll not be as long as the movie, and I'll take a state-  
6 ment from one of our late presidents: Here we go again.  
7 Let's blame the harness industry for all the ills and  
8 everything of Colonial Downs.

9 As Commissioner Siegel said earlier on, he  
10 applauded Colonial Downs for changing their time of racing  
11 to the evenings so you get more people and more handle.  
12 That wasn't the option given to us. We were told run 1:00,  
13 day times during the week when there's nobody, you know --  
14 people working, nobody can come here.

15 Then you show a movie showing there's nobody here;  
16 you close the third floor, you close the fourth floor, you  
17 close half of the first floor, close the concession stand,  
18 had a hot dog and hamburger basically on a bar, and tell  
19 people you're welcome to come. They thought we were closed.

20 So we cannot be responsible there, but we went  
21 along with it to help Colonial save money, but don't show a  
22 movie like that with nobody in the building and say, "why is  
23 that?" I mean I think they're the main reason for it.

24 When you go back to the OTBs that Mr. Stewart's  
25 referring to that we did not want to be part of it -- when

12-01-2011

1 the HPBA were negotiating a three-year contract, that was  
2 part of that three-year contract. We still had a contract  
3 in existence, and I explained when we had the summit meeting  
4 that we're willing to discuss that, we're willing to do  
5 that, but we had a contract that doesn't expire until the  
6 end of this year. So going forward, we're more than willing  
7 to look at that. All we wanted to know was what is going to  
8 be their business plan going forward for those OTBs? Are we  
9 just going to sit there and watch them die, or is there some  
10 business plan to change the way they operate, change some-  
11 thing? That's all we've asked. We've received nothing on  
12 that.

13 As for our meet itself, if you look at it, we  
14 were up \$761,000 in overall handle. That's not bad. I mean  
15 I understand there was not many people here for races, but  
16 if you go back to 12 days, I wouldn't get the horses that  
17 come here. Everyone needs outside horses to race. Yes, our  
18 horses come from Ohio, they come from Kentucky; the thor-  
19 oughbreds come from Maryland, come from Kentucky, come from  
20 Florida, but that's okay. Because ours come from some place  
21 else, that's a problem.

22 If you look at the money, we changed this year  
23 and redesigned some of our programs for Virginia. 28 per-  
24 cent of our total funds went to owners of Virginia-bred  
25 horses. That's a significant increase from the year before.

12-01-2011

1 The year before, Mr. Stewart said it was 15 percent; it's up  
2 to 28 percent of total money.

3           Projecting in 2012, we want to increase that.  
4 we want to encourage people to actually have a Virginia  
5 bred, or we've got another program in the works which is not  
6 going to cost us a tremendous amount of money, but it's for  
7 Virginia-owned. You can be an owner in Virginia, I don't  
8 care where your horse was bred -- as long as you're a Vir-  
9 ginian and you pay your taxes in the Commonwealth, you're  
10 eligible for a bonus.

11           Comments were made on our own-a-horse program.  
12 This was a brand new one; we had fun doing it, we had a lot  
13 of people doing it. Was it run the best way? Probably not.  
14 we learned an awful lot. I mean I think you turn around  
15 and -- we tried to get on with two days, some in mid-week,  
16 but that was not basically the best way because I have seen  
17 the same names coming up. Maybe do it on a Saturday with a  
18 drawing on a Sunday. There are things we can tweak, but I  
19 think it did good, it promoted this game, and it only cost  
20 us \$18,000 actually.

21           Looking back at our numbers, I think we did  
22 very well, and we're looking to -- and we have the funds to  
23 continue on.

24           we're not the problems solely of racing. Racing  
25 throughout the United States has a problem. It seems to

12-01-2011

1 pick out that we're the sole reason that Colonial Downs is  
2 in financial straights, as you might say, but it's not. If  
3 you lose a little money on our live meet -- I haven't seen  
4 the numbers for the 2011, should be significantly down be-  
5 cause there was nobody -- no employees here, there's nobody  
6 working. On the days that we did have the fourth floor open  
7 -- you saw some on the video -- there were people up there.  
8 And if it weren't, why was it that their group services came  
9 to us and asked me on just about every Saturday could I take  
10 some of the overflow crowd in our VHHA suite? And we were  
11 happy to do that. We brought them in and they were our  
12 guests.

13 So we request that we get that 32 days, continue  
14 racing, continue to have people here in support. That's  
15 basically it.

16 MR. MILLER: Does that complete your presentation?

17 MR. WOOLNOUGH: Yes, sir. You have our letter.

18 MR. MILLER: Mr. Siegel, do you have any questions  
19 of Mr. Woolnough?

20 MR. SIEGEL: Well, your letter went into a good  
21 deal more detail, which I take it the other members of the  
22 Commission have read. I just -- obviously, there's going to  
23 be a need for some compromise here. You guys are way, way  
24 far apart.

25 It's going to be difficult to -- obviously, with

12-01-2011

1 no lights on the track to run at night, the lights will have  
2 been moved from the dirt to the grass track, but depending  
3 on the time of the year, you could run later in the day.  
4 That might solve some of the problem with the 1:00 o'clock  
5 post time certainly.

6 But I think it's sort of left to this Commission  
7 to come up with a solution, since there doesn't seem to be  
8 common ground that, as I understand it at least, that the  
9 parties have reached. Is that fair in your estimation?

10 MR. WOOLNOUGH: That's true.

11 MR. SIEGEL: Okay. That's all I have.

12 MR. MILLER: Mr. Reynolds?

13 MR. J. SARGEANT REYNOLDS, JR.: I've got a  
14 question.

15 Earlier, Mr. Stewart said that they had a 15-day  
16 meet -- I can't remember what year he said, but they averag-  
17 ed 8.3 horses a race. Obviously, here y'all have had about  
18 ten horses a race or the ability to race ten, and then your  
19 letter, you said, well, we want to get back to eight, that's  
20 the national standard.

21 If they had a 15-day meet sometime ago and they  
22 averaged 8.3 horses, I mean it seems like at that time you  
23 were able to get the horses here. Can you explain why you  
24 don't think you can get them here at this time?

25 MR. WOOLNOUGH: Pretty much you can't. It goes

12-01-2011

1 back into it in the letter here.

2           There are two types of racetracks now; there used  
3 to be three. There used to be the major ones, which are the  
4 Belmonts and the Churchill Downs and stuff like that. Then  
5 you had the bottom end, and you had this great big group in  
6 the middle.

7           Now, it's split. You have the haves and the  
8 have-nots. You either have slot machines or you don't. We  
9 have happen to be in the have-nots, so when we get into slot  
10 machines areas, which now you don't even have Rosecroft,  
11 you've got Delaware, you've got all those tracks up there  
12 that have them, right? They have bigger purse structure  
13 than we have here. They did not have that back in 2001. So  
14 when we pay down here \$50,000 a day, some of the big boys  
15 didn't have it, but now they've all got it. They have a big  
16 stick, so the horses will not be coming back.

17           MR. J. SARGEANT REYNOLDS, JR.: So why not  
18 shrink -- I mean obviously I feel like there are a lot of  
19 days that there are a few people coming down here, which  
20 tells me there's too much supply and not enough demand. Why  
21 wouldn't you shrink the days, you know, to a reasonable  
22 number, therefore you up your purses and quite possibly get  
23 a lot better quality horses coming in here?

24           MR. WOOLNOUGH: Not really. I think you can look  
25 at that in the thoroughbred aspect also. Whether you run

12-01-2011

1 with standardbreds for \$50,000 a day or \$60,000 a day or  
2 \$70,000 a day, you've got the same horse. You have to get  
3 above that hundred thousand dollar mark. In the thorough-  
4 bred, if you run for a \$100,000 a day or \$150,000 a day or  
5 180, same horse. You've got to get above \$300,000 a day  
6 where you get the quality horses.

7 when you turn around and put in your Virginia  
8 Derby, which is a lot of money, you'll see them come down  
9 for that one race.

10 MR. J. SARGEANT REYNOLDS, JR.: Can y'all do that?

11 MR. WOOLNOUGH: We tried that. We turned around  
12 here, and we put you up a hundred thousand dollars for a  
13 Patriot Trot, which was a very large sum in the standardbred  
14 industry. We brought the best trotters in the United States  
15 here; Vivid Photo came down twice. We brought another horse  
16 -- Enough Talk came down here from Canada, broke the world  
17 record -- not just the track record, but the world record.  
18 He's the only horse in the world, trotter, that's gone a sub  
19 1:50 mile. Colonial Downs holds that record, and it stands,  
20 so we had those in there.

21 But in the same vein, those horses -- one was from  
22 Canada, and the other guy -- I think he's from Pennsylvania  
23 -- didn't really do much for Virginia, so what we did, we  
24 dropped it down to \$40,000 so we could put more money into  
25 the Virginia program.

12-01-2011

1           what that significantly did, I can run any horse I  
2 want for \$40,000 right now in Chester. He doesn't have to  
3 come to the stake race. So the good horses stayed in Chest-  
4 er, why ship? So you have to notice it's a significant dif-  
5 ference in money, so we have kind of dropped the Patriot so  
6 we can put more money into overnight for the horsemen.

7           MR. J. SARGEANT REYNOLDS, JR.: Well, I'll  
8 just make a general comment.

9           You know we had a subcommittee meeting, which I  
10 chaired, I suppose. Not a whole lot of progress was made.  
11 I will say that I'm very disappointed in all of that; I'm  
12 very disappointed in where we are today.

13           unfortunately, you-all are going to put the  
14 Commission into the position where we're going to make the  
15 decision on race days. Quite likely we're not going to make  
16 anybody happy, and we'll get to that; but next year, I'm  
17 committed to -- I think there were a lot of good ideas  
18 thrown out, and for whatever reason, there wasn't agreement  
19 for the Virginia centric and other -- maybe this revenue  
20 sharing of the OTBs and having you-all get in on that, but I  
21 would like those issues that were brought up earlier, I'd  
22 like to really focus in and put a lid on that next year and  
23 really get under the fingernails a little bit and either  
24 make something happen or not.

25           Now, I don't know that we can agree on race days,

12-01-2011

1 but I agree with Mr. Stewart that the status quo just can't  
2 keep going. I mean this is a nationwide problem. Harness  
3 racing, in my opinion, is in big trouble, and we all love it  
4 and we we all want to support it, but at the end of the day,  
5 it is a business, and I keep saying -- I ask the question,  
6 "who is our customer?" You know, I think our customer, whe-  
7 ther you run the racetrack or whether you're putting horses  
8 out there -- without that guy that goes up to the window and  
9 puts down his \$2 wager, without that guy, thinking about  
10 that guy and bringing him some quality or bringing him some-  
11 thing he wants to bet on, you know, we can all go home. Un-  
12 less we take care of that guy, you know, we're all in  
13 trouble.

14 MR. WOOLNOUGH: We're trying to take care of  
15 everybody on that issue. When you look at it from the  
16 standpoint of the standardbred/thoroughbred issue, Colonial  
17 Downs' take on the standardbred signal is more profitable  
18 for them than taking thoroughbred. Standardbred racetracks  
19 run around, and they have remained at three percent. That  
20 was a number that was put out many, many years ago when the  
21 first things came out with simulcast. They've remained at  
22 three percent. The thoroughbreds have gone to three and a  
23 quarter, three and a half, four percent, and in some cases  
24 in excess of that. That's a tremendously big difference on  
25 the volume of business. So it's more profitable for Colon-

12-01-2011

1 ial Downs to take the standardbred signals.

2 MR. J. SARGEANT REYNOLDS, JR.: Yes, I personally  
3 don't know how all the numbers shake out, but I'll say again  
4 -- we've got to take care of the guy that goes up to the  
5 window and bets \$2, but --

6 And those are the only questions that I have, but  
7 I'm committed as a Commissioner next year to really hopeful-  
8 ly get you guys together and bridge this gap and come up  
9 with some solutions to try to move this thing forward. The  
10 status quo is not going to work.

11 MR. WOOLNOUGH: I think I can speak for the  
12 Trotting Board at this time. We're open to discussing on  
13 any situation that came up. It sounds like we've gone  
14 against them on everything.

15 When they mentioned Oak Ridge, when they mentioned  
16 the State Fair, when they mentioned Woodstock, we didn't say  
17 no, we said fine; but you can't just throw that out there  
18 and walk away. There's got to be some specifics: who's  
19 going to do what? who's going to pay for what? How's this  
20 going to work? Those things, we're open to any suggestions.

21 MR. J. SARGEANT REYNOLDS, JR.: You-all have the  
22 letter that you'all threw out there about -- I think it's a  
23 three-year -- I don't know if it's a proposal, but you had  
24 -- I don't know, I can't remember the dates, it was 24 days,  
25 some odd days, and then four days in the third year averaged

12-01-2011

1 out to 18 days of racing.

2           why was that pulled back? why was that presented?  
3 why did I see a copy of that if that's something your Board  
4 did not ultimately agree to? It tells me that your Board is  
5 not --

6           MR. WOOLNOUGH: I'll be honest with you --

7           MR. J. SARGEANT REYNOLDS, JR.: -- agreeing on  
8 anything.

9           MR. WOOLNOUGH: On that one, Commissioner, no, the  
10 Board was not aware of it. Dr. Dunnavant, who is the presi-  
11 dent, and we support the president, had evidently discussed  
12 this with Mr. Stewart, and it was something he put out  
13 there. It wasn't basically an offer, from my understanding.

14           And when we had our Board meeting and the full  
15 Board read it, they said no, that wasn't what they wanted to  
16 do.

17           MR. MILLER: Mr. Weinberg?

18           MR. WEINBERG: I'll just make an observation.  
19 with all due respect to Mr. Woolnough, I do think that the  
20 effort to provide the specificity has been made over the  
21 course of this year. In July, Colonial Downs presented VHHA  
22 with a contract that laid out exactly what the needs were  
23 for Colonial Downs to arrive at a compromise. Bits and  
24 pieces were responded to, but we have never received a re-  
25 sponse or comments to that contract, and so to sort of focus

12-01-2011

1 on race days or focus on revenue sharing in the OTBs, there  
2 are other points in that contract that are vitally import-  
3 ant, and Colonial Downs' frustration is similar to what I  
4 think Mr. Reynolds just expressed of: How do we get really  
5 engaged, with all due respect? You know, moving from seven  
6 weeks of racing to six or eight doesn't incentivize VHHA to  
7 move off of what has been, in our view, nonresponsiveness to  
8 the global issues that we face. Race days is just one lit-  
9 tle component of it.

10           This is not a blame game -- this is not blaming  
11 the ills of the industry on the harness folks; but it is a  
12 recognition that continuing to do what we do is not leading  
13 towards a path to success. It's not a business model. Race  
14 days are part of that business model, but continuing to in-  
15 crementally go from eight, seven, six weeks of racing -- and  
16 weeks are the critical component for Colonial Downs because  
17 that's how expenses are calculated, isn't going to change  
18 the paradigm.

19           I'm sorry we are where we are today, but Colonial  
20 Downs has been trying to make these points since February.  
21 Obviously, we have not done a good job of sounding the clar-  
22 ion call to get to this point where the Commission feels  
23 it's just sort of averaging numbers and picking a number.  
24 There are a lot of issues to get resolved, and unfortun-  
25 ately, we've got to find a way to get it going because the

12-01-2011

1 last ten months have not been successful in that respect.

2 I'm not here to cast blame, but the fact is as  
3 I look back over the transcripts for the past year, the dis-  
4 cussion we had today is not much different than the discus-  
5 sion we had in December of last year and in February of this  
6 year. So I hope we can do better.

7 MR. MILLER: Thank you. Do you have anything  
8 further?

9 MR. J. SARGEANT REYNOLDS, JR.: No.

10 MR. MILLER: Anyone from the general public,  
11 independent --

12 Yes, ma'am, could you identify yourself?

13 MS. JACKSON: Hi, my name is Amanda Jackson. I'm  
14 an owner, trainer, and breeder here in Virginia of standard  
15 breed.

16 I'll be honest with you, I find it very dis-  
17 appointing that Dr. Dunnivant, our president, is not here  
18 today. I am a Board member of VHHA, and for Dr. Dunnivant  
19 to supposedly represent us and not be here to speak on our  
20 behalf, I do find that disappointing.

21 As far as Colonial Downs and what they're saying,  
22 I can see their points. From a business point of view, any-  
23 body can see what they're saying is true. But as far as  
24 when they've spoken to Dr. Dunnivant, it has not been passed  
25 on to us. I do not know of any specific business plans that

12-01-2011

1 they want to make, they want to change in regards to racing.

2           As far as Oak Ridge, I don't think the horsemen  
3 are opposed to that. I myself am closer to Oak Ridge than I  
4 am to Rosecroft. It would be more beneficial for me to race  
5 there than it would be to race at Rosecroft, if it's going  
6 to part of the Virginia Meet. There are people that come  
7 from Kentucky that are part of western Virginia. Oak Ridge  
8 would be better for them. I myself contacted Mr. Holland to  
9 try to find what he would like to do, what his plan was,  
10 with no response.

11           There are people that want to be involved here  
12 in standardbred racing, and to put it all with regards to no  
13 one being, you now, informed, wanting to be a part of it,  
14 that's not true. The Board cannot make a decision on some-  
15 thing that they're not informed about. You can't bring  
16 everybody together one night during the standardbred meet  
17 and say hey, let's make a decision tonight. I don't work  
18 that way; the other members don't work that way. I want to  
19 know what's going on before I vote for it.

20           As far as attendance at the main side of the grand  
21 stands, I can go to two bars in my local town of Farmville  
22 and make a bet on a machine at the back of it. Why do I  
23 want to drive to an OTB or to the racetrack? My neighbors  
24 bet on computers from their homes; it's more beneficial.  
25 Your product is changing, people are bidding differently.

12-01-2011

1 So you've got to compare apples to apples. We're comparing  
2 apples to oranges at this point.

3 MR. MILLER: Thank you. Anyone else have any  
4 observations, comments?

5 MR. SIEGEL: I'd just like to -- I think your  
6 comments are right on. Dr. Dunnivant made a request yester-  
7 day that we postpone this discussion because he was running  
8 a horse today or two horses today somewhere, which we didn't  
9 feel it was appropriate for us to at the last minute. It  
10 wasn't fair to Colonial Downs or any other of our stakehold-  
11 ers to postpone the event, so I think Iaian is representing  
12 him today, but it sounds like there's not any great com-  
13 munication between your president and his own Board.

14 MS. JACKSON: Well, we have a vice-president that  
15 should have been here. There are numerous members, it's not  
16 just one person. I'm a nurse, I got off work to come today.  
17 I race horses; I'm a mother -- there's numerous things that  
18 you have to do. You can't throw out, "Oh, I'm racing a  
19 horse."

20 MR. SIEGEL: Well, this issue is not for this  
21 Commission to decide but for your organization to deter-  
22 mine whether your leadership is, in fact, leading, and I say  
23 that with all due respect to Dr. Dunnivant.

24 But again, back to the earlier discussion, he  
25 made a proposal. The two of you came to my office and made

12-01-2011

1 this proposal to get us down to a four-day meet, and there  
2 was no discussion with your Board before you came to propose  
3 it, and it wasn't proposed, at least to me, as an idea, but  
4 something that you would like to propose to this Commission.  
5 And so -- and then, of course, you didn't have the support  
6 of your Board, which is unfortunate, and I think that's  
7 something you guys need to work on.

8 MR. MILLER: Thank you.

9 Anything further?

10 NOTE: There was no response.

11 MR. MILLER: I have a couple of questions.

12 Is it absolutely, vitally necessary that the  
13 standardbred race days be determined for 2012 today at this  
14 meeting?

15 MR. STEWART: No, probably not.

16 MR. WOOLNOUGH: You would like to do it as early  
17 as you can because it gives you the chance to do your mar-  
18 keting a little bit. Certain trade publications go out in  
19 January.

20 MR. MILLER: What time in January do those trade  
21 publications go out?

22 MR. WOOLNOUGH: Usually, they like to have the  
23 information in by the 10th or something like that.

24 MR. MILLER: The 10th of January?

25 MR. WOOLNOUGH: There is a fudge factor in there.

12-01-2011

1 MR. MILLER: Well, I'm just thinking out loud.

2 It seems to me as I hear this lady, and being  
3 cognizant of what's going on this summer and this fall re-  
4 lating to standardbred racing, we do have somewhat of a --  
5 to refer to an old Paul Newman movie, we have somewhat of a  
6 failure to communicate.

7 Now, there's some communication, but are the  
8 communications between the right people and under the right  
9 circumstances? Are we all talking about the same thing?  
10 And does everyone realize the severity of the situation fac-  
11 ing standardbred racing in Virginia?

12 To quote another historical statement by the great  
13 Benjamin Franklin, one of our founding fathers, who said, if  
14 we don't hang together, we will all hang separately. Now, I  
15 don't mean literally, but it seems to me that everyone -- I  
16 think you, Mr. Woolnough, Mr. Stewart, Mr. Weinberg, this  
17 lady, Dr. Dunnavant, a doctor from -- a dentist from Alex-  
18 andria who is deeply involved in harness racing whose name I  
19 can't recall right now but I should, and he's a very nice  
20 fellow, and he spoke to me at length about the travails of  
21 standardbred racing not just in Virginia, but in the coun-  
22 try. And having had discussions with several drivers and  
23 standardbred owners in Shenandoah County where I am from,  
24 everyone realizes, I think, that we face real problems in  
25 the future of standardbred racing in Virginia.

12-01-2011

1           Several suggestions have been made to address  
2 the problem here in Virginia, but I don't think the communi-  
3 cations have led to any kind of decisive recommendations or  
4 decisive action by anyone. In other words, everyone I think  
5 recognizes all the myriad of problems, and everyone recog-  
6 nizes there are possibly several solutions that could be  
7 tried here in Virginia.

8           Mr. Weinberg stated that it's a very complex --  
9 these are very complex issues. So it just bothers me a  
10 little bit that if we proceed today to go forward, we can  
11 set the race days for 2012, but it seems to me that even  
12 with those days being set, it is vitally necessary that in  
13 the months of January, February, March, and April of next  
14 year before everyone gets deeply involved in thoroughbred  
15 racing that all the people involved in standardbred racing  
16 from the stakeholders, general public, the horse industry --  
17 they need to get together and really flesh out some of these  
18 suggestions of the interstate type of operation that could  
19 be put in place, perhaps, to address the problem. And if  
20 that were done seriously, that perhaps you could set in  
21 place a schedule, a contract -- you know, we had this con-  
22 tract for the two -- a three year contract where you could  
23 set a schedule for a period of years to have some certainty,  
24 to have some idea about what you face, the problems that you  
25 face, not just for one meet, but for one, two, three, four,

12-01-2011

1 five years out. You know, it could be -- well, to quote  
2 another idea of China, a five-year plan, which was never met  
3 by the way. But anyway, you set up a plan for a number of  
4 years so that people can possibly plan for the future and  
5 invest in the future with some degree of certainty. And all  
6 these things needs to be thoroughly discussed, and the Board  
7 and the president of the Board, vice-president of the Board,  
8 chairman of the Board, whoever they are, they need to com-  
9 municate to their people, and that Board needs to sit down  
10 with the Track and work these things out.

11 And surely you can do it. I think these are --  
12 these are very complex problems, but it can be done.

13 I think my time here on the Commission -- this  
14 is my sixth year, which ends shortly, but in the last six  
15 years, you-all have come a long way in thoroughbred in ad-  
16 dressing a lot of the problems in the thoroughbred racing  
17 industry, and the same can be done in the standardbred in-  
18 dustry.

19 I'm just encouraging you to really be serious,  
20 not that you haven't been, but what I'm hearing here, you  
21 know, all this failure to understand what each entity is  
22 doing or suggesting, that just leads to confusion and acri-  
23 mony, and it doesn't help to push the ball forward.

24 So I'm hoping that next spring that you-all  
25 will work with the Executive Secretary, that you-all, the

12-01-2011

1 Commission, the stakeholders, horsemen can work out a plan  
2 to really put forward a plan for the future of standardbred  
3 racing, and I agree with Commissioner Reynolds, and I think  
4 Iain agrees too -- the status quo just isn't working. It's  
5 got to change, so I'm hoping that that will take place.

6 Now, I came here today prepared to vote for the  
7 race days in 2012, but with the degree of uncertainty that  
8 I've heard about some of remedies to some of the problems  
9 that you face, it seems to me like a few more things might  
10 be able to be worked out. Maybe you could have a meeting  
11 the first part of January, and if the parties are serious  
12 about trying to work out a few things, tweak a few things  
13 between then and any meeting that the Commission may have  
14 the first part of January, perhaps you can set a more -- set  
15 the stage with a little more realistic standard, because  
16 really, what I was prepared to do here today is the same old  
17 thing that I've done all my life as a lawyer and that is to  
18 split the difference. You know, Mr. Weinberg is familiar  
19 with that in civil actions. Sometimes not just -- you know  
20 you can't go here, you know you can't go there, so try to  
21 keep everybody a little bit happy and do something midway.

22 But as Mr. Weinberg has said and as you have said,  
23 the problem is so -- the problem is a lot deeper and needs a  
24 better solution than that, in my opinion.

25 I just throw that out for what it's worth. See,

12-01-2011

1 it's easy for me to say because as of midnight December  
2 31st, I walk away and you people are left with all the  
3 problems. But nonetheless, that doesn't mean I'm not, as  
4 a citizen of Virginia, I'm interested in the success of  
5 racing in Virginia, and I'm interested in the success of the  
6 horse industry in Virginia and the agricultural industry,  
7 and I'm interested in the success of this track. I don't  
8 want to see this be an empty edifice or see it gone and have  
9 a housing development -- this housing development simply  
10 spread from the back all the way out to the Interstate.

11 So, that's my perspective.

12 MR. STEWART: If I might say one thing, Colonial  
13 Downs certainly has no problem with that. I've always been  
14 in favor of taking the time to get the best answer instead  
15 of just getting the fastest answer.

16 MR. J. SARGEANT REYNOLDS, JR.: Mr. Chairman, I  
17 would add that if we are going to go into January, I believe  
18 your contract expires at the end of this year. I would make  
19 some sort of recommendation that we at least amend the ex-  
20 isting contract to take it another 30 days, 60 days, what-  
21 ever that is, but to make sure that Colonial Downs -- or  
22 make sure they're not operating without a contract, because  
23 I think that puts them in a tough spot.

24 MR. MILLER: Well, let me ask a question,  
25 Mr. Weinberg -- as their attorney, is there anything that

12-01-2011

1 would transpire beyond the contract termination date that --  
2 what substantive activities is the contract related to that  
3 would have to be addressed?

4 MR. WEINBERG: The existence of the contract,  
5 not so much the contractual provisions that survive the  
6 December 31st expiration date. In fact, I think virtually  
7 everything that would need to be done within that three year  
8 period has now been addressed.

9 what I believe Commissioner Reynolds is referring  
10 to is the statute requires that no simulcast signals can be  
11 received by Colonial Downs with respect to the harness with-  
12 out a harness contract, and so that there must be a contract  
13 in place in order to take harness signals in a satellite  
14 wagering facility.

15 MR. MILLER: Is that do-able?

16 MR. STEWART: well, I mean it seems to me that  
17 we're at the 1st of December, there's 30 days. If the part-  
18 ies are prepared to work at it, but you know -- I don't  
19 know. I think that the issue can be resolved.

20 MR. REYNOLDS: You-all can sign a contract, but  
21 we don't really have to act on it, okay? I'll just throw  
22 that out and let you-all decide.

23 MR. STEWART: We can certainly talk about a  
24 contract.

25 MR. HETTEL: well, I was just going to suggest we

12-01-2011

1 put a small extension on the existing one. Let's go ahead  
2 and call the two remaining Commission members in early Jan-  
3 uary, say January 10th -- Iain, I think you mentioned Jan-  
4 uary 10th as a necessity date to have stuff in for public-  
5 ation. would you-all want to go ahead and have that meeting  
6 on the 10th?

7 MR. SIEGEL: The 10th would not work for me.  
8 There are dates that do work.

9 MR. HETTEL: well, we're going to have a new  
10 Commissioner. I've been informed that Carol Dawson will be  
11 joining us on January 1st as a Commissioner, and I told her  
12 I would give her a call once we knew we'd established the  
13 January date.

14 what's a good date for you?

15 MR. SIEGEL: well, I can throw out a couple dates  
16 or several dates, but I think the important thing is that,  
17 a, you work out these legal issues with regard to the con-  
18 tract; but b, the challenge that the Chairman has put for-  
19 ward is that you have time to get together and work through  
20 these issues, and at the next meeting, present hopefully a  
21 unified plan, but at the very least move this ball forward  
22 to the point where if this Commission is left to make a dec-  
23 ision, we can make a decision that's not quite where this  
24 one would be today and other issues are resolved.

25 Now, does that give you enough time if we meet

12-01-2011

1 early in January? You have the holiday coming up -- other  
2 than the first week in January, early parts of January, the  
3 first date that works for me is the 16th or 17th or 18th.

4 MR. HETTEL: 16th is a State holiday.

5 MR. SIEGEL: Okay, the 17th or 18th work for me.  
6 There's others involved here too, so don't --

7 MR. J. SARGEANT REYNOLDS, JR.: Works for me.

8 MR. HETTEL: well, just for the moment though, the  
9 necessity to continue simulcast, the urgency for the moment  
10 is you-all can't receive simulcast without a contract.

11 MR. SIEGEL: well, it's one piece of paper, I  
12 think. I'm not the lawyer. To just get a 30-day extension  
13 or whatever the number is --

14 MR. WEINBERG: That is what we have done in the  
15 past. And I think I can consult with Colonial Downs and see  
16 if that's something we can do.

17 MR. SIEGEL: well, we need to know that, because  
18 otherwise, we do have to act today, do we not?

19 MR. STEWART: well, I mean we've extended it  
20 before. I'm not opposed to extending it.

21 MR. SIEGEL: So you can agree to extend it for 30  
22 days, the existing contract?

23 MR. WEINBERG: Yes.

24 MR. SIEGEL: well, that gives us license to move  
25 another month.

12-01-2011

1 MR. HETTEL: We need to figure out a January  
2 date that's acceptable to Ms. Dawson and to you too. We  
3 don't have to have that at this moment, I don't think.

4 MR. SIEGEL: I mean we could actually pull up a  
5 couple of dates and then you can send out something, but I'd  
6 like to see --

7 MR. HETTEL: So you're good from the 17th on?

8 MR. SIEGEL: No, I'm good on the 16th, 17th, and  
9 18th, and then I'm good again on the 23rd. So it's really  
10 those three days, and you said it's a State holiday on Mon-  
11 day the 16th. What is that holiday?

12 MR. HETTEL: Martin Luther King.

13 MR. SIEGEL: Okay, so the 17th or 18th.

14 MR. SIEGEL: So does the 17th or 18th work for the  
15 group?

16 MR. HETTEL: It's good with Sarge, so let me let  
17 the new Commissioner know.

18 MR. SIEGEL: So I would suggest that we  
19 tentatively set it the 17th, if that's good, and then use  
20 the 18th as a rain date in case she cannot.

21 MR. HETTEL: And then the 23rd is good just in  
22 case --

23 MR. SIEGEL: 23rd or the 24th.

24 MR. HETTEL: Okay. All right. I will let  
25 the membership know and everybody else once I talk with Ms.

12-01-2011

1 Dawson.

2 MR. STEWART: I'd like to make one request. I  
3 think it would be very beneficial if a member of the Commis-  
4 sion or the Executive Secretary was a direct participant in  
5 these conversations.

6 MR. J. SARGEANT REYNOLDS, JR.: I was just going  
7 to offer --

8 MR. PETRAMALO: Boy, this is scary, I was thinking  
9 the same thing.

10 MR. REYNOLDS: I would be happy to do it, or  
11 Commissioner Siegel might want to do it.

12 MR. SIEGEL: well, Bernie could.

13 MR. J. SARGEANT REYNOLDS, JR.: I'd rather have  
14 Bernie do it, actually.

15 MR. MILLER: Let me just caution you. Not more  
16 than two Commissioners --

17 MR. J. SARGEANT REYNOLDS, JR.: Yes, right.

18 MR. HETTEL: I'm not a Commissioner.

19 MR. SIEGEL: I'm sorry, you were specifically  
20 saying a Commissioner?

21 MR. STEWART: well, I just think that if Sarge  
22 and Bernie participate, I think that would be very bene-  
23 ficial and facilitate the situation.

24 MR. MILLER: Hold on here just a minute.

25 Mr. Petramalo?

12-01-2011

1 MR. PETRAMALO: I was going to suggest, given the  
2 history here, a mediator would be very helpful, and I was  
3 thinking more of offering up Bernie since he's not a member  
4 of the Commission and wouldn't be subject to any disabili-  
5 ties, legal disabilities if later on there had to be some  
6 kind of vote taken on what went on.

7 MR. SIEGEL: Is that okay with you, Ian?

8 MR. STEWART: Sure.

9 MR. PETRAMALO: How about you, Bernie? You like  
10 this job?

11 MR. HETTEL: I love it. Virginia is for lovers.

12 MR. MILLER: Well, I didn't mean to -- I really, I  
13 didn't mean to defer this --

14 MR. SIEGEL: I think it's a good idea.

15 MR. MILLER: I didn't discuss this with my two  
16 Commissioners here, and I really want to work well with them  
17 in the future.

18 MR. SIEGEL: We certainly didn't get anything  
19 done today, but I think we've made some progress, at least  
20 in setting out a forecast for the next 30 days and an as-  
21 signment for the group in hopes that you will get some of  
22 these issues resolved and come up with something that is  
23 acceptable to everyone, and I think it gives you a chance,  
24 Iain, to get your Board together and your president together  
25 and be speaking with one mind. I think that's key for your

12-01-2011

1 side.

2 MR. WOOLNOUGH: Yes, it is.

3 MR. MILLER: And make sure that the membership  
4 of the Board is involved in addition to the leadership of  
5 the Board. In other words, I mean how many members on the  
6 Board?

7 MR. WOOLNOUGH: Fifteen.

8 MR. MILLER: Well, if it takes having all 15,  
9 but you know, I'm just suggesting that everyone needs to  
10 know what everyone else is thinking. Everyone needs to know  
11 all the possible solutions, everyone needs to know what can  
12 realistically be done now; everyone needs to know what might  
13 be realistically in a year or two down the road if we work  
14 together -- you know, that type of thing. That's the only  
15 way you're going to succeed.

16 And one other parting comment before we leave  
17 this subject, and that is that you know that you're working  
18 in a hostile environment in Virginia to begin with. You're  
19 trying to run a racing operation and a gaming operation in a  
20 state that set it up to be done but has no interest in see-  
21 ing it succeed. I hate to use that word, but I don't think  
22 that's too drastic, and that's not overstating it, because  
23 in the six years I've been here and in the years before I  
24 came, I've seen no evidence of the general membership of the  
25 General Assembly of Virginia nor the leadership of the ex-

12-01-2011

1 executive branch, neither Democrat nor Republican, coming  
2 forward and saying we've got to work this out, we've got to  
3 increase purses, we've got to do something to make Colonial  
4 Downs track a success, make the horse racing industry a  
5 success and get more benefit to the agricultural industry  
6 in Virginia through this racing operation. No one has come  
7 forward and said that from the political spectrum. That's  
8 why I said during our work session it's going to be up to  
9 you fellows to get your political friends to get on board.

10 well, with that being said then, we're through  
11 with the standardbred racing until -- you'll set up a thing,  
12 Bernie, if you will do a little synopsis for everyone of  
13 what we just did.

14 MR. HETTEL: All right.

15 MR. MILLER: And get it out to all the  
16 stakeholders and Dr. Dunnivant and all the interested  
17 parties about what the aim is, and try to facilitate set-  
18 ting up this process, if you would.

19 MR. HETTEL: Yes, sir.

20 MR. MILLER: It's very important.

21 MR. SIEGEL: Mr. Chairman, we've tentatively set  
22 the next meeting for Tuesday, the 17th of January, subject  
23 to confirmation and Bernie will get the word out to --

24 MR. HETTEL: I will.

25 MR. PETRAMALO: While we're on this point, do you

12-01-2011

1 want to go ahead and approve the thoroughbred days?

2 MR. MILLER: Yes, we'll now entertain a -- that  
3 being done, we're deferring the setting of the race days for  
4 the standardbred races days as of now, so I'll entertain a  
5 motion regarding the establishment of the thoroughbred race  
6 days for 2012.

7 MR. SIEGEL: So moved.

8 MR. J. SARGEANT REYNOLDS, JR.: Second.

9 MR. MILLER: That would be in accordance with the  
10 request of Colonial Downs, and that has been concurred in by  
11 the Virginia Thoroughbred Horse Members Association and the  
12 Virginia HBPA?

13 MR. PETRAMALO: Yes.

14 MR. MILLER: And you -- that's all set forth in  
15 this filing, so it establishes it as set forth in the  
16 filings.

17 All in favor say aye.

18 NOTE: All indicated by voting aye.

19 MR. MILLER: So that has been done.

20 MR. WEINBERG: Thank you, very much.

21 MR. MILLER: The next item on the agenda was a  
22 request by the VTA for Amendments to Chapter 130.

23 Mr. Petty?

24 MR. PETTY: We're requesting to amend the  
25 Breeder's Fund Regulations so that there is two sets of

12-01-2011

1 registration fees, one for members and one for nonmembers,  
2 and basically, the fees would -- our fees have never  
3 changed, they will stay the same, but the nonmember fee  
4 would essentially be the fee plus a membership.

5 This is done in a lot of other states, they do  
6 it in Pennsylvania, they do it Maryland. It's just a way of  
7 getting the folks and getting part of that Breeder's Fund  
8 paid and be more involved in the industry instead of pushing  
9 the ball up the hill.

10 MR. MILLER: It's all set forth in your --

11 MR. PETTY: It is, and it's just a matter of  
12 amending a couple of sections in the language under fees for  
13 each type.

14 MR. MILLER: You have no objection, Mr. Petty,  
15 to this being -- this request being continued until the next  
16 meeting of the Commission, do you?

17 MR. PETTY: I don't. It doesn't impact what  
18 we're doing now, which is registering horses for '12. That  
19 deadline's December 31st, so I don't think it would make any  
20 difference if we did it --

21 MR. MILLER: The reason I say that is because --

22 MR. HETTEL: Mr. Picklesimer asked that it be  
23 deferred.

24 MR. MILLER: Yes, he wanted to ask to be here when  
25 it's determined.

12-01-2011

1           MR. PETTY: Well, I would point out that he was  
2 the only member on the committee that had an issue, and as I  
3 said to him in my last communication, "I understand you're  
4 opposed to it, but I still don't understand why."

5           So, I'm going defer to your pleasure, but he was  
6 the lone voice that seemed to have an issue.

7           MR. SIEGEL: How many people are in this group?

8           MR. PETTY: Five, six.

9           MR. MILLER: Dave?

10          MR. HETTEL: It wasn't required that the  
11 subcommittee approve this, but I just thought as a courtesy  
12 to the subcommittee since it dealt directly with the Breed-  
13 er's Fund that it would be good to get, hopefully, all their  
14 approvals and any comments or concerns. As Mr. Petty was  
15 saying, Mr. Picklesimer was the any only one that had any  
16 negative comments about it.

17          MR. MILLER: Well, my concern is, as with anything  
18 having to do with process, and that is unless it's absolute-  
19 ly necessary that we make a decision today, if we could  
20 defer it, because you know, citizens are entitled to be  
21 heard, even if we disagree with them. You know, if there's  
22 someone that has concern about the request, we certainly  
23 want to hear from them because it may be that some very  
24 cogent points may be raised. Maybe not, but in any event,  
25 as long as it doesn't -- as long as it's not time sensitive,

12-01-2011

1 if it could be deferred at least until the next meeting, and  
2 we'll be sure to put that on the docket that this will be  
3 determined at the next meeting. So whoever has any comments  
4 about it must appear at the next meeting to make their com-  
5 ments, because the decision will be made by the Commission  
6 at that time. Is that --

7 MR. PETTY: I think as long as we have this  
8 resolved in time for the regulations to take effect prior to  
9 the 2012 Meet, we'll be all right, because that's always an  
10 issue: There's a lot of people calling right before the  
11 race meet in a panic to register.

12 MR. MILLER: Yes, this regulation approval  
13 process -- I think --

14 MR. PETTY: These are emergency regs, so they go  
15 faster.

16 MR. HETTEL: Mr. Chairman, anything dealing with  
17 the Breeder's Fund is exempt from the APA process, so a turn  
18 around time, once we get an approval from the Commission,  
19 would be 30 days, at most 45 days.

20 MR. MILLER: All right.

21 MR. HETTEL: We certainly can do it.

22 I think the VTA was hoping to have it nice and  
23 neat and start as of January 1, but we understand your con-  
24 cerns, and deferring it to the next meeting I don't think is  
25 going to hurt us too bad.

12-01-2011

1 MR. MILLER: All right. Well, then that will be  
2 an item -- an action item on the docket for the next meeting  
3 of the Commission.

4 MR. HETTEL: Yes, sir.

5 MR. MILLER: Anything further on that?

6 MR. PETTY: No, sir.

7 MR. MILLER: Frank, do you have --

8 MR. PETRAMALO: No.

9 MR. MILLER: Item Number 5, Applications for  
10 Renewal of ADW licenses for 2012 for EZ Horseplay, TVG,  
11 XpressBet, TwinSpires.

12 MR. HETTEL: Mr. Chairman, normally the December  
13 meeting is held more in the middle of the month. The dead-  
14 line for applications being submitted for renewals is  
15 actually today, December 1st, but I would like to possibly  
16 suggest to the Commissioners that, you know, these are the  
17 same four licensees we've had for many years; we haven't had  
18 any issues with them; I can't think of anything that staff  
19 would discover in these renewal applications that would  
20 prohibit them from being relicensed for 2012, so if it would  
21 please the Commission, if possibly you could approve their  
22 renewal for 2012 contingent on the application review by  
23 staff.

24 MR. MILLER: I approve of that motion, that sounds  
25 good.

12-01-2011

1 So that's the motion. Is that all right with --

2 MR. SIEGEL: Well, somebody has to make it. I  
3 think it requires a motion.

4 MR. MILLER: Yes.

5 MR. J. SARGEANT REYNOLDS, JR.: I make a motion  
6 that we approve the licenses for 2012, EZ Horseplay, TVG,  
7 XpressBet, and TwinSpires, contingent upon application  
8 review by Staff.

9 MR. MILLER: Second?

10 MR. SIEGEL: Yes, second.

11 MR. MILLER: All in favor say aye.

12 NOTE: All indicated by voting aye.

13 MR. WEINBERG: Just an observation, and I offer  
14 it only that in the event Staff did find something and this  
15 Commission could not meet again, did you want to add that  
16 Staff had discretion to extend the existing license until  
17 the next meeting of the Commission to address whatever is-  
18 sues they do find?

19 MR. MILLER: Sounds good. Did you want to make  
20 that motion?

21 MR. REYNOLDS: I have to do it all over again?

22 MR. MILLER: No, no.

23 MR. J. SARGEANT REYNOLDS, JR.: I'd like to move  
24 that Staff can extend the existing license --

25 MR. SIEGEL: As part of that motion.

12-01-2011

1 MR. J. SARGEANT REYNOLDS, JR.: -- as part of the  
2 original motion.

3 MR. MILLER: All in favor?

4 NOTE: All indicated by voting aye.

5 MR. MILLER: Glad we tied up that lose end. Now  
6 someone else may apply today.

7 MR. HETTEL: Highly unlikely, but possible.

8 MR. J. SARGEANT REYNOLDS, JR.: Do you want me to  
9 make another motion?

10 MR. MILLER: Now, is there any member of the  
11 public here today who wishes to --

12 MS. PERRY: I would like to.

13 MR. MILLER: Yes, ma'am.

14 MS. PERRY: I'll only take about five minutes of  
15 your time.

16 My name is Barbara Martin-Perry, I'm from  
17 Midlothian, Virginia, and I thank you for allowing me to  
18 speak to you today, and I'm speaking on behalf of all the  
19 fans who attend the live races here in the summer and fall.

20 I've lived here since 1958, and I've waited about  
21 50 years for Colonial Downs to be built. Therefore, I at-  
22 tend every weekend and some weekdays for both thoroughbred  
23 and standardbred races, and as a result, Colonial Downs  
24 gives me a complimentary table in the Jockey or Turf Club  
25 every year. Some of my students have played the national

12-01-2011

1 anthem here several times.

2 I'm a member of the Virginia Harness Horse  
3 Association, the United States Trotting Association, the  
4 Hall of Fame of the Harness Horse and Museum in Goshen, New  
5 York. My family were the largest retailers of horse equip-  
6 ment in the United States from 1935 to 1960. The company,  
7 Martin & Martin, had stores at Roosevelt Raceway, where we  
8 had 60,000 people come at night to see harness racing. Good  
9 old days. Yonkers Raceway, Belmont Park and Freehold  
10 Raceway in New Jersey.

11 I give a trophy every fall in memory of my late  
12 husband, Forrest F. Martin, owner of Martin & Martin. I  
13 have owned thoroughbred and standardbred horses and appeared  
14 many times as guest speaker on "Off to the Races" with  
15 Darryl Wood, when he had that TV program. He is sometimes  
16 called the racehorse historian of Virginia.

17 Before there was baseball, the national pastime,  
18 football, basketball, and NASCAR, there was harness racing  
19 going back to 1840 -- before baseball -- on Long Island.  
20 I've given owners and drivers here T-shirts from the Hall of  
21 Fame showing this.

22 I respectfully ask that both thoroughbred and  
23 harness meets be given the same amount of days in 2012 as we  
24 had in 2011 and would like more days next fall, if possible,  
25 than we had this year for the pacers and the trotters.

12-01-2011

1           The editor of the United States Trotting  
2 Association magazine said something in his last editorial in  
3 November that's very interesting. The viability of harness  
4 racing is measured by handle, not by attendance or conses-  
5 sions or purses. That means that our focus as an industry  
6 must shift from marketing willy nilly to get them, the fans,  
7 to come to watch, to focusing our efforts on what we have  
8 that other forms of gaming don't have -- a puzzle that has  
9 to be solved every 15 minutes featuring the most beautiful  
10 animals in the world.

11           Do you have any questions?

12           MR. MILLER: I thank you very much for your  
13 presentation. We appreciate very much you being here.  
14 We're honored by your presence.

15           MS. PERRY: I had to get a dog sitter for my two  
16 beagles to get here. I'm the only one that has a dog sit-  
17 ter, I'm sure.

18           MR. MILLER: Well, we thank you, very much.

19           MS. PERRY: Thank you.

20           MR. MILLER: Any other member of the public?  
21 Yes, sir?

22           MR. SMITH: I'm Curtis Smith, and that's really  
23 nice. I will not be able to speak as eloquently as she did.

24           That's really nice to hear that; but one concern  
25 about the thoroughbred race meet that I want to bring up

12-01-2011

1 that I'm very concerned about, and it's that prospect of  
2 night racing, turf night racing just seems that really the  
3 possibilities could be endless as far as the participation  
4 outside from the public. But without an alternative or a  
5 real good alternative to Mother Nature, the idea of trying  
6 to get more on-track attendance, the first time you cancel a  
7 race meet at night or a race day at night when people have  
8 already driven out here, and the next time they have weather  
9 and they think about coming out to Virginia Downs (sic.)  
10 when the weather is dicey, this could really backfire, and  
11 if Mother Nature is perfect, it will be fantastic.

12 Mother Nature can be ruthless and it can be a  
13 total disaster for not just the attendants, but the horse  
14 people that have to medicate their horses, so I'm really  
15 concerned about that.

16 So one, I would like to ask if we know the number  
17 of days that we're off the turf last year? And I understand  
18 there's going to be some drainage -- we already mentioned  
19 that, but I would like to know how many off-days, you know,  
20 last meet? Five?

21 And again, and in the long-term plans, will there  
22 be lights on the dirt track so that, again, if there's any  
23 disaster, we have some plan, back up plans so people don't  
24 come out to Virginia Downs (sic.), Colonial Downs and not  
25 watch racing.

12-01-2011

1           MR. MILLER: Thank you. Those are very good  
2 comments. I mean I'm sure they're concerns that the horse-  
3 men and the track have thought about.

4           MR. PETRAMALO: May I respond to that?

5           MR. MILLER: Yes.

6           MR. PETRAMALO: We share that concern, but our  
7 view was we needed to try something different to generate  
8 more interest and have people come to the track. Along with  
9 Colonial Downs, which I think also recognizes the problem,  
10 we thought we'd try this to see what happens.

11           Last year, meaning last summer, I think we came  
12 off the turf for three full days, if I'm not mistaken, and  
13 two part-days. So it's -- it's a serious concern, but as  
14 Jeanna points out, one of the big problems is the turn down  
15 there never drained, and by fixing that, it may allow us to  
16 run on the turf even when it's wet out to the extent that we  
17 haven't been in the past.

18           But it's a concern, and we're certainly going to  
19 be looking at it.

20           MR. STEWART: And I would point out that while I  
21 certainly hope that we don't have to cancel any days, every  
22 winter they cancel up north, many racetracks, so canceling  
23 a day of racing is not a tremendously unusual event. I mean  
24 it does happen, and that's why we've agreed with VHBPA to  
25 re-run any canceled days on the following Wednesday.

12-01-2011

1           Clearly, if a hurricane comes over Virginia and  
2 sits on us for two weeks, it's going to be a problem; but we  
3 can sit here where we are and do nothing, or we can try to  
4 do better, and we're going to try to do better.

5           MR. SIEGEL: Would it make any sense to change the  
6 post times and run on the main track on a rainy day?

7           MR. STEWART: I guess you could. It's a little  
8 tough because we sell all of our -- we've got a lot of  
9 reservations that --

10          MR. HETTEL: It would be particularly difficult  
11 with people shipping in and medication changes.

12          MR. PETRAMALO: We have at least 35 percent of the  
13 starters ship in.

14          MR. STEWART: Well, I mean it's difficult. I  
15 don't even know -- I mean if you go to a baseball game and  
16 it gets rained out, you go home. I know I was very disap-  
17 pointed.

18          UNIDENTIFIED SPEAKER: Some people still have  
19 off-track betting.

20          MR. SIEGEL: Somebody should consider how you  
21 market next year to allow people to understand if there's  
22 rain, here's what happens rather than to get here and ask  
23 the question or to not show up on those alternative days,  
24 you know, there's nobody here, they don't know it. So you  
25 might be out front with that to let folks know that.

12-01-2011

1 MR. STEWART: And I certainly agree with that.

2 I would also like to point out that our turf  
3 track does drain very well. Years ago, there was a phenome-  
4 non that when it rained, we came off the dirt and went on  
5 the grass because the dirt track was a little rough.

6 Mr. Woolnough, I'm sure remembers --

7 MR. PETRAMALO: The dirt track was red that year,  
8 as I recall. It was all clay.

9 MR. MILLER: Well, that's a legitimate concern  
10 with any sporting franchise be it racing, horseracing,  
11 baseball, football -- anything that's done outside is  
12 subject to the whims of nature, and that's always taken into  
13 consideration by the parties that run the franchise.

14 MR. WOOLNOUGH: Well, the biggest concern, and  
15 Colonial Downs has always stepped up to that, is the safety  
16 of the horse's life, and that's what it's done for. I'm  
17 sure they'll continue to do that.

18 MR. MILLER: Yes.

19 Any other public comments?

20 MR. PETRAMALO: I'd like to make a comment  
21 directed to the Chairman.

22 Personally, and on behalf of the horsemen, I'd  
23 like to thank you for your six years of service. I person-  
24 ally appreciate very much your objective and dispassionate  
25 analysis of problems and your recommendations for solutions,

12-01-2011

1 and I'm very sorry that you won't be continuing with the  
2 Commission.

3 MR. MILLER: Well, thank you, very much. That's  
4 very kind of you, Mr. Petramalo. I'm going to miss all of  
5 you. I've enjoyed it, it's been a good six years.

6 when I was put on this Commission, I had no idea  
7 where they met or what they did, and -- but I tell you, it's  
8 been a real pleasurable experience for me. Everyone I've  
9 met in this position, all of you, I really respect you. You  
10 all work hard. You disagree at times about various things,  
11 but I think all of you have your hearts in the right place  
12 regarding racing in Virginia and what we're trying to ac-  
13 complish here in Virginia.

14 And as I said before in this meeting, you're up  
15 against tremendous odds here in the State of Virginia in  
16 order to survive, and I commend all of you. I wish I could  
17 help you in the future, but as I told Bernie, my politics  
18 are wrong in Virginia, because I'm not right-wing enough to  
19 survive politically in Virginia. But -- so I could never be  
20 a help or bring my kind of political assistance to anybody  
21 from this state.

22 But this State will learn. If they're going to  
23 succeed, they've got to join the 21st century, and it will  
24 happen some day. You just have to keep -- you all just have  
25 to keep pushing.

12-01-2011

1 MR. PETRAMALO: Now, if you'd like to continue in  
2 the industry as a horse owner, my colleague here, Stephanie  
3 Nixon, can help you in that regard.

4 MS. NIXON: Yes, I can.

5 MR. MILLER: Yes, I'm well aware of that.

6 MR. SIEGEL: I was going to comment before  
7 adjournment as well, but I think on behalf of the Staff and  
8 this Commission, we'll echo everything that Mr. Petramalo  
9 has said and more. I mean you've done an outstanding job  
10 and managed the discourse quite ably, and we appreciate  
11 what you've done.

12 MR. MILLER: Well, thank you.

13 Oh, yes, I did want to make another comment, I  
14 should have done this before.

15 All of you remember Frank Ferguson passed away,  
16 and I would like just to show in the minutes of this meeting  
17 the deep appreciation this Commission had for his efforts  
18 for us and for the horse industry in Virginia. He went to  
19 extraordinary efforts to help this Commission to achieve  
20 what this Commission is supposed to achieve in Virginia  
21 under the Statute, and it's very sad -- his passing is very  
22 sad, and I was so sorry to hear it.

23 But he was a wonderful human being, an outstanding  
24 lawyer, and just a good person, and we're so sad to hear of  
25 his passing.

12-01-2011

1 well, I appreciate the comments from all of you,  
2 and I think you're in good hands, and I expect to see great  
3 things out of racing in Virginia in the future.

4 with the next meeting having already been set, or  
5 the next meeting having already --

6 MR. HETTEL: I'd like to check with the new  
7 Commissioner, but it should be the 17th, if it's acceptable  
8 to her.

9 MR. MILLER: If there's nothing further remaining  
10 to be done, we will adjourn.

11 Thank you. No closed session.

12 NOTE: The hearing concluded at 11:47 a.m.

13

14

15

16

**HEARING CONCLUDED**

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CERTIFICATE OF COURT REPORTER**

I, Roy Garrison Wood, hereby certify that  
I was the Court Reporter at the meeting of the Virginia  
Racing Commission at the time of the hearing herein.

Further, that to the best of my ability, the  
foregoing transcript is a true and accurate record of the  
proceedings herein.

Given under my hand this 16th day of January,  
2012.

---

**ROY GARRISON WOOD**  
REGISTERED PROFESSIONAL REPORTER